

THE
PRESENT STATE of
NEW-ENGLAND

Impartially Considered,

In a LETTER to the CLERGY.



Reverend Sirs.

TWo Months have already past away, since with Astonishment I have beheld the most deplorable Condition of our Countrey; Into what a *Chaos* of Confusion and Distraction have we run our selves? And in what a *Labrinth* of Miseries and Perplexities are we involved? 'Tis High Time now to make some serious Reflections on the state of our Affairs.

In the First place therefore, 'Twill be Necessary to Examine our selves, and to Consider,

1. For what Reasons, and to what End did we take up Arms?
2. Whether those Reasons be Substantial, and such as carry with them Weight enough to justify the Act; And whether the proposed End can be obtained by such Methods?
3. If not, What will be the Event, and whether any way be left open to us for a peaceable and friendly Settlement?

Although there be some (not of the meanest Capacities) among us, who are of Opinion, that a few persons to gratifie their Malice, Ambition or Revenge have been the *plotters & contrivers* of our unhappy Troubles, and the better to carry it on have made use of the deluded Countrey men, as the *Monkey* did the *Car's* foot to pluck the *Chestnut* out of the *fire*; Yet I shall not lightly be over credulous in that matter, nor give Entertainment to such Suggestions; I shall onely therefore instance such things as Conversation & Report have brought to my Knowledge, or as I shall find obvious in the *Declaration*; the summe of which is,

" That above ten years since, there was an horrid Popish Plot in the Kingdome of England, in which the Extirpation of the Protestant Religion was designed.

" That

" That there was great Reason to Apprehend the Reformed Churches
 " of *New-England*, were to be overwhelmed in the same pit of Ruine
 " and Destruction.

" That the better to effect it, our Charter (the onely hedge which
 " kept us from the Wild Beasts of the field) was both injuriously and il-
 " legally Condemned, before it was possible for us to appear at *Westmin-*
 " *ster* in the legall Defence of it, and without a faire Leave to Answer
 " for our selves

" That by an illegall Commission we were put under a President and
 " Councill, which was soon superseded by another more Arbitrary and
 " Absolute to *Sr. Edmond Andros*, giving him Power, by the Advice of
 " his Councill, to make Lawes and levy Taxes as he pleased, to must-
 " ter and imploy all persons resident in the Territory, as Occasion should
 " require, and them to transfer to any English plantation.

" That severall Red-Coats were brought over, to support what should
 " be imposed upon us, and more threatned.

" That Preferments were principally loaden on Strangers and Haters
 " of the people.

" That we were Squeez'd and Oppress'd by a Crew of abject persons
 " from *New-York*, who took and extorted extraordinary and intolerable
 " Fees.

" That it was impossible to know the Lawes that were made, and
 " yet dangerous to break them.

" That by some in open Councill, and by the same in private Con-
 " verse, it was affirmed, that the People in *New-England* were all
 " Slaves, and the onely Difference between them and Slaves, was their
 " not being bought and sold ; and that it was a Maxim delivered in
 " Open Court, by one of the Councill, That we must not think the Pri-
 " viledge of English men would follow us to the End of the World.

" That we were denied the priviledge of *Magna Charta*, and that
 " Persons who did but peaceably object against raising Taxes without
 " an Assembly, were for it severely fined.

" That Juries have been picked and pack'd, and that some people
 " have been fined without a Verdict, yea without a Jury.

" That some People have been kept long in Prison, without any In-
 " formation against them, or being Charged with any Misdemeanour,
 " or *Habeas Corpus* allowed.

" That Jury-men were fined and imprisoned, for Refusing to lay their
 " hand on the Booke, as they came to be Sworn, contrary to the Com-
 mon

"mon Law of *New-England*.

"That there was a Discovery made of Flaws in the Titles of our Lands : and that the Governour denied that there was any such thing as a *Towne* among us.

"That *Writts of Intrusion* were issued out.

"That the Governour caused our Lands to be measur'd out for his *Creatures*, and that the Right Owners for Pulling up the stakes have been grievously molested.

"That more than a few were by *Terrours* drawne to take Patents at excessive Rates.

"That the Forcing of the people at the East-ward thereto, gave a Rise to the late unhappy Invasion by the Indians.

"That *Blanke Patents* were got ready, to be sold at great prices, and severall persons had their Commons begg'd.

"That the Governour and five or six of the Councill, did what they would, and that all such who were Lovers of their Countrey were seldome admitted.

"That all manner of Craft and Rage was used to hinder Mr. *Mather's* Voyage to *England*, and to ruine his person.

"That although the King promised Mr. *Mather* a *Magna Charta* for Redresse of Grievances, and that the Governour should be writ unto, to forbear those Measures that he was upon ; yet we were still injured in those very things which were Complained of.

"That our Ministers and Churches have been discountenanced.

"That we were imbiared in an Indian-Warre, and that the Officers and Souldiers in the Army were under popish Commanders.

"That the rest of the English plantations, being alarm'd with just Fears of the *French*, who have treated the English with more than *Turkish* Cruelty, could not but stir us up to take care for our owne Preservation, lest we should be delivered to the *French*, before Orders could come from His Higness the Prince of Orange, and the Parliament of *England*.

"That we have for our Example the Nobility, Gentry and Commons of *England*, and above all we esteeme it our Duty to God so to have done.

Thus far have I traced the *Declaration*, and do not know that any one thing materiall is omitted, I shall now mention some other things which have occur'd.

'Twas credibly reported,

"That *Boston* and all the Inhabitants were to be destroyed, and to that end the *Mahawks* were to be brought down.

"That there were severall Fire-workes prepared in the Fort, and Vaults dugg under ground to blow up the Towne.

"That the Souldiers at the East-ward were all poisoned with Rumm.

"That there were Thirty sail of *French* Frigots upon the Coast.

With severall other things which I cannot recollect.

These are the principall Reasons alledged for our taking up Arms: now the End can be no other than the Redresse of those evils complained of.

The next thing then to be considered of is, *Whether all or any of the Reasons aforesaid, are sufficient to justifie our Proceedings, and Whether the proposed End can be attained by such Measures.*

First then, That there was an horrid popish Plott, is without doubt, and if *England* at that time had fallen under the Yoak of *Roman* Tyranny and Thraldome, tis as certainly true *New-England* must have undergone the same Fate: but that this should be used or introduced as a Reason or Argument for Vacating our *Charter* is beyond my conception; for Fire and Sword were the designed instruments and ministers of their barbarous and hellish Contrivance: and if they had once prevailed, how weak a Rampart would our *Charter* have been against so cruell and powerfull an Enemy? Would a blood thirsty and conquering *Papist* have made *Westminster-Hall* the Arbiter? Certainly, No; we must have received our Law from the mouth of the Cannon, and our *Hedge* would have been broke downe with a great deal of ease. Is it reasonable to imagine, that after they had waded through the blood of *King* and *Nobles* to their wished-for End in *Old England*, they would make use of Politicks in *New*? And as preposterous and unreasonable to fancy, That for that end our *Charter* was called in question, especially when we consider that more than four *Decads* of years have already past since the *Crowne of England* first thought it not fit for us to hold any longer, and severall years after the *popish Plot* was discovered before the *Scire facias* issued out.

2. That the *Charter* was injuriously and illegally Condemned, without giving us timely notice of it, or allowing us to Answer for our selves, might bear some weight with it, if true: but it will appeare quite other wise, and that we had opportunity enough to have made defence on behalfe of our *Charter*, if we had so thought fit, for severall years before the proceedings to the Condemnation thereof. Our late Soveraigne

raigne King Charles the Second, by His Letters signified to us the many Complaints that were made to him of our Encroachments, and ill-Administration of the Government, and commanded that we should send over Agents sufficiently Authorized, to Answer the same, which we at length so far complied with, as to send Agents, who when they were called to hear and Answer the said Complaints, alwaies excused and avoided the principall parts thereof pretending they were not sufficiently impowered for that purpose; and after, other Agents fully impowered to Answer, but not to submit or Conclude any thing: And when His Majesty was pleased to cause a Writt of *Quo Warranto* to be sued forth, against our *Charter*, and sent over with his Gracious Declaration, and Proposals of such Regulations to be made therein, as might be agreeable with His Majesties Service & the good & well-fare of his subjects here, and required an entire Submission from us therein; our *Generall Court* would not submit to, or comply therewith; onely a Letter was sent to the Right Honourable Sr. Lionell Jenkins, then Secretary of State, dated the 10. of December 1683, Subscribed by the Governour & Eight of the Assistants onely; wherein after the acknowledgement of their having had a Copy of the *Quo Warranto* and His Majesties Declaration, they say that the major part of the *Magistrates* have for severall Weeks declared their Opinion, and voted to lay themselves at His Majesties feet, by an humble Submission and Resignation of themselves to His Majesties pleasure; not being willing to Contend with His Majestie in a Course of Law, but by the next Opportunity to dispatch their Agents fully impowered to make their submission according to His Majesties said Declaration, but by no means can at present obtain the Consent of the *Deputyes* whereby to make it an Act of the *Corporation*, and therefore have agreed with them to a power of Attourney-*Ship*, to save a Default, in hopes that further time will prevail to dispatch their Agents accordingly, and shall earnestly endeavour to give the people a better Understanding before the next Ships saile from hence:

His Majesty by this finding that all the easie meanes He had used could not bring us to any Answer, for the Crimes and Misdemeanours laid to our Charge, nor produce any thing else but Baffles and Delayes, gave Order to His Attourney Generall to sue out a Writ of *Scire facias* out of the High Court of Chancery, against our Governour and Company, which was accordingly done, directed to the Sheriffs of London &c. and made returnable in *Easter Terme*, in the 36 yeare of His Majesties Reigne, wherein they were Required to make knowne to the said Governour & Company

Company at *London*, that they may appear in His Majesties High Court of *Chancery* at *Westminster*, on the day of the Returne thereof, to shew cause wherefore the said *Charter* for the Reasons in the said Writt of *Scire facias* mentioned and contained, should not be made void, null, and cancelled, and the Liberties and privileges thereby granted to the said Governour and Company be seized into the King's hands; upon which Writt the said Governour and Company not appearing, another Writt of *Scire facias* of the same Tenour issued forth, Returnable in *Trinity Terme* then next following, when the said Governour and Company appeared by their constituted Attourney and Councill, but refused to plead to the said Writt, onely moved for time to fend hither, which not being agreeable with the Rules and Practice of the Court in such Cases, could not be allowed: But in favour to them a Rule was made, that unless they pleaded by the first day of the then next *Michaelmas-Terne*, Judgement should be entered by Default. And in that Terme for Default of pleading, Judgement was entered on His Majesties Behalfe, and the said *Charter* adjudged to be void, Null, and Cancelled, and that the Liberties and Priviledges of the said Governour and Company be Seized into the Kings hands, which was accordingly done, by the Exemplification of the said Judgement in the Reigne of King *James* the Second, and by His Majesties Commission to a President and Councill to take the Government of this Countrey: All which proceedings are most just and Legall, according to the Rules and practice of the Law of *England*, and agreeable with many Precedents of the like nature, both Ancient and Moderne.

Besides: All Companies, Corporations, or Bodies politick, made or granted by Letters Patents or Charter from His Majesty, for any parts or places beyond the Seas, are by themselves or Agents, to be always ready to answer His Majesty in any of his Courts at *Westminster*, when He shall think fit to Order any Suite, or Writt to be sued and prosecuted against them; and are supposed to be Resident in or about *London* or *Westminster* for that purpose, as the *East-India*, *Royall-African*, *Bermudas*, and *Hudson-bay Companies* are, who have their Trade, Factories, Colonies and Plantations abroad in *Asia*, *Affrica*, and *America*: and in the like state and Condition ought the Company and Corporation of the *Massachusetts Bay* in *New-England* to be, According to the Capacities given them by their Incorporation of *Sueing and being-sued, Pleading & being Impleaded*; wherein if we have neglected our Duty, as well as exceeded our Powers and Priviledges granted, and would not put our selves into

into a Condition to be heard when we ought and might, it is not His Majesty nor the Proceedings of His Courts that are to be blamed but our selves.

3. That there was a Commission sent to the *President*, and the successive one to *Sr. Edmond Andross*, are both true, but that they were illegal, is a position a little too confidently asserted by the Penman, who seems to be more a *Clergy-man* than a *Lawyer*; but because the well clearing up of this point will be of great Service to the subsequent Discourse, 'twill not be amiss that it be thoroughly considered. I shall therefore lay downe this as a certaine Maxime, both consonant to Reason & the Lawes of the Land: That *Those Kingdomes, Principallities, and Colonies which are of the Dominion of the Crowne of England, and not of the Empire of the King of England, are subject to such Lawes, Ordinances and Forms of Government as the Crowne shall think fit to establish.* That *New-England and all the Plantations are subject to the Dominion of the Crowne of England, and not to the Empire of the King of England:* Therefore, *The Crowne of England may Rule and Govern them in such manner as it shall thinke most fit.* For the prooffe of which I shall instance *Wales*, which was once a Kingdome or Territory governed by its owne Lawes, but when it became of the Dominion of the Crowne of England, either by Submission or Conquest, it became subject also to such Lawes as King *Edward the first* (to whome they submitted) thought fit to impose: as may plainly appeare in the Preamble of the Statute of *Rutland.* *Leges et Consuetudines, partium illarum hactenus usitatas, coram nobis et proceribus Regni Nostri fecimus recitari, quibus diligenter auditis, et plenius intellectis, quasdam illarum de Consilio Procerum predictorum deleuimus, quasdam permissimus, et quasdam correximus, et etiam quasdam alias adjiciendas et faciendas decreuimus, et eas de cetero in terris Nostris in partibus illis perpetua Firmitate, teneri et observari volumus, in forma subscripra.* In English thus, "We have caused the Lawes and Customs of those parts hitherto used, to be recited before Us and the Peers of Our Realme, which being diligently heard & more fully understood, some of them, by the Advice of Our Peers aforesaid, We have obliterated, some We have allowed, and some We have corrected, and have also decreed that some others shall be made and added to them; and We will, that for the future they be holden & observed in Our Lands in those parts with perpetual firmnesse, in manner herein after expressed. --

Then follow the Ordinances appointing Writts originall and judiciall in many things varying from those of England, and a particular man-

manner of proceeding.

And againe in the Close of the said Statute, *et ideo vobis mandamus quod permissa de cetero in omnibus observatis, ita tantum, quod quotiescunq; et quandocunq; et ubicunq; Nobis placuerit, possimus prædicta Statuta et eorum partes singulas declarare, interpretari, addere sive diminueri pro Nostra Libito voluntatis prout securitati Nostræ, et Terræ Nostræ viderimus expediri:* “ And therefore We Command you that from hence forward you observe the premises in all things so onely, that as often, whensoever and wheresoever We please, we may declare, interpret, add to and diminish from the said Statutes and every part of them according to “ Our will and pleasure, so as We shall see it expedient for the safety of “ Us and Our Land aforesaid.

In the Next place I shall instance *Ireland*: That it is a ‘Conquered Kingdome is not doubted, [*Co. Rep. fol. 18. a.*] but admitted in *Calvins Case*, and by an Act of the 11th, 12th, and 13th, of King *James*, acknowledged in expresse words, *Viz. Whereas in former times the Conquest of this Realme by His Majesties most Royal Progenitors Kings of England, &c.*

That by Virtue of the Conquest it became of the Dominion of the Crowne of *England*, and subject to such Lawes as the Conquerour thought fit to impose, untill afterwards by the Charters and Commands of *H. the Second*, King *John*, and *H. the 3.* they were entituled to the Lawes & Franchises of *England*; as by the said Charters, Reference being thereunto had, may more fully appeare. I shall onely instance two.

The first is out of the close Rolls of *H. the 3.* Wherein the King, after Thanks given to *G. de Mariscis* Justice of *Ireland*, signifies, That Himself and all other his Leiges of *Ireland* should enjoy the Liberties which he had granted to his Leiges of *England*, and that he will grant & confirm the same unto them: [*Claus. 1. H. 3. dorso 14*] Which afterwards in the 12th yeare of his Reigne he did: as followeth, *Rex dilecto et fideli suo Richardo de Burgo Justiciari; suo Hibernæ, Salutem: Mandavimus vobis firmiter precipientes, quatenus certo die & loco faciatis venire coram vobis, Archiepiscopos, Episcopos, Abbates, Priores, Comites & Barones, Milites & libere Tenentes, et Balivos singulorum Comitatum, et coram eis publice legi faciatis Chartam Domini Johannis Regis, Patris nostri, cui Sigillum suum appensum est, quam fieri fecit, et jurari a Magnatibus Hiberniæ de Legibus et Consuetudinibus Angliæ observandis in Hibernia. Et precipitis eis ex parte Nostra, quod Leges illas & Consuetudines in Charta prædicta contentas, de cetero firmiter teneant et observent.* “ The King to His faith-

“faithfull and beloved *Richard de Burg* Justice of *Ireland* Greeting; We
 “have Commanded you, firmly injoining you, that on a certain day and
 “place, you make to come before you, the Archbishops, Bishops, Ab-
 “bots, Priors, Earles, Barons, Knights, & Free-Holders, and the Bay-
 “lifs of every County, and before them you cause to be publickly read,
 “the Charter of the Lord King *John* our Father to which His Seal is af-
 “fixed, and which He caused to be made and sworne to by the Nobility
 “of *Ireland*; concerning the Lawes and Customs of *England*, to be obser-
 “ved in *Ireland*. And command them on Our behalfe, that for the fu-
 “ture they firmly keep and observe those Laws and Customs contained
 “in the Charter aforesaid,

By all which it is evident that after the Conquest, and before the
 recited Charters, the Inhabitants there, altho’ composed of many free-borne
English Subjects who settled themselves among them, were neither govern’d by
 their owne Laws, nor the Laws of *England*, but according to the good
 pleasure of the Conqueror: and if you will take the opinion of *Sr. Edward*
Cooke in his Annotations on the *Great Charter*, he tells you plainly
 That at the making thereof it did not extend to *Ireland*, or any of the King’s
 forreigne Dominions, but after the making of *Poynings Law*, which was
 in the 11th yeare of *H.* the 7th (long after the *Great Charter*) it did
 Extend to *Ireland*.

I have onely one Instance more, and that is the Usage of forreigne Na-
 tions in their Plantations and Settlements abroad.

The Government of the *United Provinces & Denmarke* are well knowne
 in *Europe*, and yet in all their Plantations, their Governments are de-
 spoticall and absolute; all the power is in the hands of a Governour &
 Councill, and every thing is ordered and appointed by them; as is well
 knowne to those that are acquainted with *Batavia, Surinam, Curasao,*
New-Yorke (when formerly in their hands) and the Island of *St. Thomas*.

By which it is it evident that *Those Kingdoms and Principalities which*
are of the Dominion of the Crowne of England, are subject to such Laws,
 Ordinances, and Methods of Government, as that Crowne shall think fit to
 establish.

The next thing then to be proved is, That *New-England*, and all the
English Colonies are subject to the Dominion of the Crowne of *England*, as
Wales and *Ireland* are, and not to the Empire of the King of *England*, as
Scotland is,

’Tis a Fundamentall Point consented unto by all Christian Nations, that
 the First Discovery of a Countrey inhabited by Infidells, gives a Right
 and Dominion of that Countrey to the Prince in whose Service and Em-
 ployment

ployment the Discoverers were sent. Thus the Spaniard claimes the West-Indies, the Portugals, Brasile, and thus the English these Northern parts of America; for Sebastian Cabott imployed by King H. the 7th. was the first Discoverer of these parts, and in his name took possession, which his Royall Successours have held and continued ever since, therefore they are of the Dominion of the Crowne of England, and as such they are accounted by that excellent Lawyer Sr. John Kaughan, in his Reports [*Vaugh. Rep. Craw versus Ramsey.*] which being granted, the Conclusion must necessarily be good, and it will follow, That Englishmen permitted to be transported into the Plantations, (for thither without the Kings Licence we cannot come) can pretend to no other Liberties, Priviledges or Immunities there, than anciently the subjects of England who removed themselves into Ireland could have done: For 'tis from the Grace and Favour of the Crowne alone that all these flow and are dispensed at the pleasure of him that sits on the Throne: which is plaine in the Great Charter it selfe; where after the Liberties therein granted by the King it concludes thus, — *tenendas & habendas de Nobis & Hereditibus Nostris in perpetuum*, “ To HAVE and to HOLD of Us and Our Heires for ever, which by the learned Sr. Edward Cooke is thus explained: *These Words (saith he) are not inserted to make a legall Tenure of the King, but to intimate that all Liberties at first were derived from the Crowne.* [*Instit. Pag. 2. Fol. 4.*] Barbadoes, Jamaica, the Leeward-Islands & Virginia have their Assemblies, but, it is not *sui Juris*, 'tis from the Grace & Favour of the Crowne signified by Letters Patents under the broad Seale. But these Assemblies have not power to enforce any Act by them made above one year; the King haveing in all the Concessions granted them, reserved unto Himselfe, the Annulling or Continuance of what Laws they make, according to His pleasure.

New-England had a Charter, but no-one will be so stupid to imagine that the King was bound to grant it us: Neither can we without impeaching the prudent Conduct and discretion of our Fore-Fathers, so much as think, they would put themselves to so vast an expence, and unnecessary Trouble to Obtain that which as Englishmen, they thought themselves to have a sufficient right to before: We owe it onely to the Grace and Favour of our Sovereigne, and if we had made beter use of it to promote the Ends for which it was granted, the weight of those Afflictions under which we now groan would not have laine so heavy upon us, at least we should have less deserved them.

Besides, The Parliament of England have never by any Act of theirs
favour

favoured the Plantations, or declared or enlarged their Privileges; but have all along plainly demonstrated that they were much differenced from England, and not to have those Privileges and Liberties which England enjoyed; being in all Acts relating to the Plantations, Restrained and burthened beyond any in England, as appears by the several Acts made for the Encreasing of Navigation and for Regulating and securing the Plantation Trade.

I think I have both by good Authority, Practice & Precedent, made it plaine, that the Plantations are of the Dominion of the Crown of England, and without any Regard to *Magna Charta*, may be Ruled and Governed, by such wayes and methods, as the Person who wears that Crowne, for the good and advancement of those Settlements, shall think most proper and convenient. Therefore Neither the Commission to the President, nor that to Sr. Edmond Andros can be said to be illegall.

Since then such an one might lawfully be granted, we have great reason to commend the Moderation of the Gentleman, who was entrusted with it, and so returne thanks to Almighty God for placing over us a person endued with that prudence & Integrity, that he was so far from exceeding his Commission, that he never put in execution the powers therein granted him. Have there been any Taxes laid upon us, but such as were settled by Laws of our owne making, any part whereof might be retained & in force after the Condemnation of our Charter that the King thought fit. Who hath been Transferr'd out of this Territory? Or did we ever pay fewer Rates than we have done under him?

And whereas it is also Alledged in the Declaration, that *there were Courses taken to damp and spoile the Trade, &c.* the same is altogether Mistaken, (unless by that is meant the irregular Trade, used heretofore with Forreigners and Privateers, contrary to the Acts of Navigation & the Laws of the Land.) For the very considerable Advance of His Majesties Revenue arising by Customs, doth sufficiently demonstrate that the lawfull Trade of this Territory, was very much increased under the Government of Sr. Edmond Andros.

4. Twill be but time lost to say any thing of the Red-Coats, for no man can be so void of Sense and Reason to think that so many Thousand men, which at this day inhabit this Colony, could be imposed upon by one hundred Red-Coats, and if any body hath been so vain as to threaten us with more, I look upon it an effect of Passion or Folly; for Experience, which certainly is the most convincing Argument in the world, tells us there is no such thing.

and Haters of the People, I must confesse, I cannot easily comprehend, unless to inhabit fourteen or fifteen years within the Territory will make a man such. Is their any one Gentleman of the Councill, that hath either been displaced or put into that station by the Authority here? Which of our Judges are strangers? Were not Three of them brought up amongst us and of our owne Communion? and was not the other in the same Employment in some part of this Territory at the time of the Annexation? From whome had the Secretary and Collector his Commission? certainly from no body here. Did the Alteration of the Government change our Treasurer? Is it not the same *Sr. Edmond* found here? Is he not a man of estate, good Credit and Reputation, and one of our owne Countrey men? Were not all Officers in the Government, as well Magisteriall as Ministeriall, naturall borne English-men, & Subjects to the Crowne of *England*? How then are Strangers & Haters of the people preferr'd. when there is not one that can reasonably and justly be so term'd. in any place of Trust or Office throughout the Dominion?

6. Who are mean't by abject persons from *New-Yorke*, wants an Explanation: for none of the Gentlemen that came from thence now in any Authority, but are well knowne to have liv'd there for a long time in esteem and Reputation enough to merit a better Epethite of all good and honest men; and I believe it will one day appear, that their faithfull Discharge of their Dutyes, their Constancy and Steadiness to the *Church of England*, and unshaken Loyalty & Fidelity to the Crowne was their greatest Crime.

I am not well acquainted what Fees were taken, but this I knowe, that a Committee of the Councill were appointed to make a Settlement of Fees, for all Officers throughout the Government, which was effected, approved of, and sent to *England*, and if any one have exceeded those Limits they deserve to be called to Account: but it ought to be in a due Course of Law. For the personal Miscarriages of a ministeriall Officer, are no sufficient Warrant for an Insurrection; neither ought the Whole Government to be subverted because *Tom*, or *Harry* are ill men. The Authority can but provide good and wholesome Lawes, for the Punishment of evill Doers, and cause those Lawes to be put in Execution against Offenders; but if any one doth me a personall Wrong, for which I have a Remedy by Law, and I will not take it, I ought not to quarrell with the Government, for tis my own Fault, and I might have Redresse if I would. Personall Crimes must be censured personally and

and a Government ought no more to be scandalized and aspersed; because an Extortioner is in it, than because there is a Felon or a Traitor.

7. I need not tell you that the Statute Lawes of England are printed at large, and that many Abridgements of them are so Likewise, and easie enough to be procured, neither can it be but very well knowne that all the Acts of the Governour and Councill were solemnly publish'd with Sound of Trumpet as soon as made, and authentic Copies afterwards transmitted to the Clerks of each respective county throughout the Territory: why then it should be said, that *It was impossible to know the Laws*, I see no reason, unless by it is meant the *Common Law*, and if so, we may as well quarrell because we do not understand *Euclide*, or *Aristotle*; For the Knowledge of the Law cannot be attained without great Industry Study and Experience, and every capacity is not fitted for such an Undertaking. *Ex quovis Ligno non fit Mercurius*. If this was a Grievance, what a miserable Condition are we in now, that instead of not knowing the Law, there is no Law for us to know.

8. What rash or indiscreet Expressions may fall from any single person of the Councill, either in his private or politick Capacity, I will not undertake to justify; all men are not endued with Qualifications alike, every one in that station ought to give his Opinion, as he himselfe understands the matter; and if any one have unadvisedly uttered words so disagreeable, I know no body injured by it, neither can the Government be justly censured for it.

9. That the Priviledges of *Magna Charta*, & other liberties of English men were denied us, is a thing which can never be made appear, however admitting it, I have sufficiently discussed that point in the third Article.

10. By the persons said to be severely fined, for peaceable objecting against raising of Taxes, without an Assembly, I conjecture are meant the *Ipswich* men, who were so far from a peaceable objecting, that they assembled themselves in a riotous manner, and by an Instrument conceived in Writing, did associate and oblige themselves to stand by each other in opposition to the Laws of the Government, and by their Example influenced their Neighbours to do the like. And this by the Law is esteem'd an offence of that Nature, That it is next door to *Rebellion*, for which they were Indicted, Tryed, and Convicted, either by Verdict or their owne Confession.

11. I cannot justify that Sheriffe who doth either pick or pack a Jury, tis both repugnant to the Law and his Oath, and he deserves no Favour that can be guilty of such a Crime, but let him first be known, & the

the thing proved, for I do not Remember any one that hath been Convicted, nor so much as accused for such an Offence.

12. Judgement upon *Demurrers* and *Defaults* are so practicable and warrantable by the Law, that nothing can excuse the Enumerating them amongst the Grievances in the Declaration but the Penman's want of Knowledge in that Profession. 'Tis a Maxim, *Volenti non fit Injuria*, and when both Plaintiffe and Defendant do by a joint Consent submit to the Determination of the Court, or by their owne Negligence make Default; who hath the Wrong? Where is the injury? This hath been a Practice so frequently used in our former Government, that no body can be ignorant of it.

13 That any one hath been long imprisoned; without being charged with Crime or Misdemeanour, is an Allegation which I dare be bold to say can never be proved. I have heard an *Habeas Corpus* was in one particular case denied, I will not enquire into the reasons of it, nor pretend to justify it, although much may be said in that matter; Admitting the Fact, 'twas but a personall injury, for which the Law gave an effectuall Remedy, and if the party grieved would not make use of such, must the Government be in fault? If we do but consider well how many persons are now under far worse Circumstances, I am sure we cannot but blush when we read that part of the Declaration.

14 That Jury men were fined and imprisoned for Refusing to lay their hands on the Book, I presume is a mistake, probably they may have been fined for their Contempt, and sent to Prison for not paying that fine, which by the Law may be justified; for every Court may fine any man for a Contempt in open Court, and they themselves are Judges of the Contempt.

Whether it be a forcing of Conscience or not, I shall leave to the Casuists, but I am very well-satisfied it is not comprehended within the late Indulgence,

Yet admit it were, the Judges are sworn to do their duties in their office according to the Lawes of the Land, Prescription is a good & sufficient Law, the form of Laying the hand on the Booke hath been the onely modus of Swearing, Time out of mind; Therefore the Laying the hand on the Booke in Swearing is a good Law, and the Judges cannot dispense with it *salvo Sacramento*, if they did, a Judgement in such a Case would be erroneous & reversable: and 'Tis dangerous to admit of Innovations,

The Common Law of New-England is brought in to warrant the Lifting up the hand; but I take that to be the *Rara avis in terris*, for I challenge

challenge the whole Territory to produce one Precedent of such a resolved Case: but perhaps by it *Prescription* is intended, if it be, that will as illy serve the turn as the other; for the Colony hath not been long enough settled to claim any Advantage by that Right, or if it had, could it be admitted without apparent Violation of our *Charter*, being absolutely repugnant to the *Lawes of England*.

15. Fully to discuss the question concerning the Titles of our Lands, would be a Subject too copious for this present designe, Therefore I shall only glance at it as I pass by, being Resolved, when time shall serve to declare my opinion more amply on that Subject; in the mean time let every considering man examine well our *Charter*, which is the very *Basis* of all our Rights, (unless we will set up a power above the Kings) and then let him tell me in whome the Fee Simple of that Tract of Land betwixt *Charles River & Mirrimack* remains: if in the *Grantees* or their *Heires*, how do we derive our Titles from them? If in the *Governour and Company of the Massachusetts Bay*, we must enquire whether pursuant to the *Directions* and powers to them granted, it is by good & sufficient Conveyances in the Law derived unto us, if we find it so, we must not be disturbed with Fears and Jealousies, for nothing can hurt us: if not, we are infinitely obliged to those persons who have made us sensible of our Weaknesses, in a time when by *His Majesties Letters Patents* the *Governour* was impowered to supply all such defects, and not upon Terms either excessive or unreasonable, but upon such as were both easie & moderate, which will plainly appear to any man who will but give himself the trouble to peruse the Table of Fees, settled and allowed by the Councill. Yet still every man was at his own Liberty to take a *Patent of Confirmation* or to let it alone, which is Apparent enough by the many Petitions now lying in the Secretaries Office, which although his Excellency was alwayes ready (so far as in him lay) to Grant, yet the more necessitous Affairs of the Government, which both he and all about him ever prefer'd to theirs private Advantage, took up so much of his time, that not above Twenty ever past the scale, and I am very well assured, that not one Example can be produced that the least compulsion was ever used in this Case to any man living within this Dominion.

16. That *Writts of Intrusion* were issued out, is doubtlesse true, and the Government would have justly merited a severe Censure, if all *Waies* should have been free & open for the Subject to attaine his Right, and none left for the King. We should think our selves highly injured to

be refused a *Capias* or any other Common Writ, and I'm sure the other is as peremptory a one in the Kings Case, and had the Pen-man been never so little acquainted with the *Natura Brevium*, or the *Register*, he would have been ashamed to have stuffed up the Declaration with such matter which can be of no other service, than to amuse & deceive ignorant people. have their been any Writts of this kind daring Sr. Edmond's Administration, taken out against either *poor* or *ignorant* persons that had neither purses nor brains to defend themselves: hath it not been against such as both for their Estates and Capacities, are sufficiently known to be eminent? And the business of Deer-island was brought on for no other Intent than that Right might be done to the King here, and that the party, if agrieved, might in a Regular way have brought it to the Councill board in *England*, for their determination: and I think if this matter were rightly understood, it would be of excellent Service to the Countrey, for such a Judgement would sufficiently instruct us what we have to trust to;

17. If the Governour did say, there was no such thing amongst us as a Towne, what can be inferred from thence? 'Tis not to be presumed but his discourse tended onely to a Body Corporate and politick, for we generally call that a Towne in *America*, where a number of people have seated themselves together: yet its very well known, tis so in name onely not in fact: I take that Body of People to be a *Towne*, properly so called, who by some Act of Law have been *Incorporated*, and in that sence there is no such thing as a Towne in the *Massachusetts*, neither was there a power to make such before his Excellencies Arrivall. For *One Corporation cannot make another.* [the case of *Suttons Hospital.* Co Rep.]

18. I am totally ignorant what is meant by *Blank Patents*, for tis the first time I ever heard of such a thing; neither indeed can such a thing be. For he that takes a Patent for his Land, doth it in such a Form as best pleaseth himself, or as he shall be advised to by his Councill, and how any man living can so far know my mind, to prepare such an Instrument for me, I leave the world to judge.

This Notion did arise from one Roll of Parchment onely, brought over by Capt. *Tanner*, and if we do but consider, that all Law process was then in Parchment, it would serve but a little while for that use; for it contains not above sixty sheets.

I am likewise gropeing in the darke, to finde out how the Forceling of the people at the Eastward to take Patents (although I know of no such thing done) gave a Rise to the late unhappy Invasion by the Indians, unless

unless by that meames, they were deprived of those Quit-Rents and Acknowledgements, which by a base & dishonourable Agreement the people of those parts some time since submitted to pay them, as their *Lords and Masters*.

19. That our Commons might be begg'd, is not very strange, but that the Governour must be criminall because such a thing is asked of him, is the most wonderfull thing in the world. To whome have they been granted, or for which of his creatures have they been measured out? If Lieut Col' *Lidget* be instanced, how came he to be the Governour's Creature, that hath so long liv'd among us in Reputation equall to the best of us, and whose Fortunes were not so narrow that he needed a dependancy upon any body, and estate & interest in *Charles-town Lands* equallled if not exceeded any man's there, so his Right to the Grant ought to be preferr'd.

If *Clarks-Island*, (granted to Mr. *Clarke* of *Plimouth*) I must tell you 'tis not within the *Plimouth Patent*, and therefore grantable at the pleasure of the King, which was the Opinion of the Councill in that Case, and neither of the before-mentioned Grants, nor indeed any other, did ever pass without their *Approbation and consent*; and this is all that I know of that can be objected.

20. What an Age do we live in now, and how wonderful a thing is it, that it should be counted a Crime in a land *so well govern'd as once New-England was* after a legall Tryal & Conviction, to punish & fine men for a Riot and the Contempt of Authority, in the highest Nature imaginable? For what less was it for the Number of three or more to meet together, throw downe & remove the Land-marks sett up by the Surveyor Generall thereunto Authorized by the Governours Warrant? And thus is the Case and no otherwise.

21. That any of the Councill were ever denied Admittance to that Board, is a thing so apparently false, that I'm sure not a man amongst them but must justify the Governour in that point; who was alwaies so far from such a method, that altho there was a certain day appointed for their Meeting every week, *well knowne to them all*, yet it was a frequent thing for him, to send on purpose to *Salem*, and other Neighbouring parts, for the Gentlemen that lived there: and I have seen the Messengers Account, wherein he Chargeth a considerable summe of money for Horse hire on those Errands. 'Tis very well knowne, his Excellency hath waited many houres for several of the Gentlemen that live in Towne, and would never sit, until

till they came. And as he hath never done, nor ordered the least matter relating to the Government, without their Advice and Consent, so he never did it without a sufficient Number to make a *Quorum*, which was Seven.

22. There was never any other course taken, to hinder Mr. Mather's Voyage to *England*, than what the Law allowes, neither can the Government, without a great deal of Injustice, be charged with any thing relating to that matter, for none in place knew his errand.

There was a particular difference between Mr. Randolph & him, and I never heard of any other course taken by Mr. Randolph than the ordinary *Writt* in such Cases usual, which was so far from Retarding his Voyage, that an *Attourney's* entering a common Appearance in that Case, would have been sufficient to have discharged him if the *Writt* had been served.

23. Suppose his Majestie promised Mr. Mather a *Magna Charta*, for redress of Grievances, and that his Excellency should be wrote unto, to forbear the measures he was upon, yet no such thing being done, he was Obliged to the Observance of his Majesties Commands, before Signified to him in his Letters Patents, which was a sufficient warrant to him, untill he should receive something subsequent to contradict it.

24. That our Churches and Ministers have been discouraged, is so generall an head, and the rest of the Declaration so particular, that it gives me cause to suspect the Truth of it, and I shall hardly alter my Opinion, until any one of you be instanced who kept himself within his Province, and onely meddled with that which belonged to him.

'Tis the Church of *England*, that have most reason to Complain, onley we cry *whore first*. Has not their Minister been publicly Affronted, & hindred from doing his Duty? What scandalous Pamphlets have been printed to vilify the *Liturgy*? And are not all of that Communion daily called *Papist dogs & Rogues* to their Faces? How often has the plucking down the Church been threatned? One while, it was to be converted to a Schoole, & anon it was to be given to the *French Protestants*; and whoso will but take the pains to survey the Glass Windows, will easily discover the marks of a malice not common. I believe tis the First National Church that ever lay under such great disadvantages, in a place where those that dissent from her must expect all things from her grace and favour.

25. Should I undertake to recount all the particulars of the late *Indian Rebellion*, this would swell to a bulk bigger than ever I designed it, I shall onely tell you, we must look at home for the Reasons of those troubles.

bles, which is well knowne began when his Excellency was at *New-York*; and that the Folly and Rashness of the people, drew it on their owne heads. The Governours Conduct in that affair has been so prudent and discreet, that I have no Reason to doubt but the Councill, into whose hands all the Papers relating to that business did fall, are very well satisfied with it. Things were brought to that pass, that if our unhappy domestic Troubles had not intervened, the War before this time would have been advantageously finished, without any Rates or Taxes on the Countrey, for by His Excellencies good husbandry, the standing Revenue would have defrayed the Charge.

Tis true, We have lost some of our friends and Relations, in that Expedition, but could the *Governour* keep them alive? Are not Diseases in Armies, as fatal to men as the Sword? When Death comes, tis not to be avoided; and we see that all our art & care hath not been sufficient to preserve our dearest friends at home, from the greater Mortality which hath run thro' the Countrey. Did any of them dye Neglected? Which of them wanted any thing to be had in these parts? Did his Excellency lye upon Beds of downe, and fare deliciously every day? No, the same Meat, the same Drink, the same Lodging in their Quarters & Marches, were common to all, only *He* was generally the *last* taken care for. To what a degree of Madness & impiety are we then grown, so *salessly & maliciously* to recriminate a person who hath so generously exposed himself to the *hardships* of that cold & uncomfortable Climate, & the Fatigues of War, against a barbarous and savage people? And certainly if God Almighty hath not *given us over to believe lies*, our eyes must be by this time open, & we cannot but knowe, we have been put-upon, sham'd and abused. who are *Papish Commanders* in the Army? Will any man bare-fac'd averr so great an Untruth? It must be confess'd, there was *one* Commander & no more under that Circumstance; but what had he to do with the Forces? His Post was the Command of the *King's* Souldiers & Fort at *Pemaquid*, and was not Commissionated for the Army; besides if he had, hath he not lived long amongst us? Did any one ever question his ability, Conrage, Fidelity or Conduct, and ought not that Liberty of Conscience, which has been so hotly preached up, even to the Encouragement of immoral Acts amongst us. to be equally beneficiall to him with other men? Especially when the Gentlemen in the Countrey were so far from offering their Service in the Expedition, that some of the most eminent amongst them have absolutely refused the service. And I have been told, the *Governour's* proposalls to the Councill, about his

going to the *Eastward* met with no Opposition, lest some of the Military men there, should have been bound in Honour to have taken that Employment upon themselves.

26. That some of the *English Plantations* in the *West-Indies*, which are contiguous to the *French*, should be Alarm'd, is no wonder, for they were ever jealous of their Neighbourhood, and always stood upon their Guard; But that *We* should be afraid of being delivered up to the *French*; when there is neither War betwixt the two Crowns, nor any *Frenchmen* that we can yet heare of, to receive us, is one of the most unaccountable things in the world. From what parts must they come? from *Canada* we know they cannot; they have Reason enough to look to themselves, for they are more afraid than we: *France* have their hands full at home, and its well knowne they cannot spare any from the *West-Indies*; they made their utmost effort against *Estatia*, and by the best intelligence we can get in that Service or War, there was not one *Frigat*. Must they then drop out of the Clouds, or do we expect a Fleet from *Utopia*? Certainly this must needs convince any considering man that we have been extreemly abused; and we must be stupid and senselesse to think that *Sr. Edmond Andros*, and ten or twelve men more (for that is all the number said to be concerned in this wonderfull plott) could they be guilty of so horrid a wickednesse & impiety) were able to deliver so many Thousand men well appointed, into the hands of a few *Frenchmen*, who from God knows whence, were to come the Lord knows when.

27. That it was either our Duty to God, or that we had either the Nobility, Gentry or Commons of *England*, for our President, I cannot by any means allow, and I am amaz'd to see *Christians* call that a Duty, which God has so remarkably shewed his displeasure against in all Countries and Ages. Is not Rebellion as the sin of Witchcraft? Numb. 11. 12, 16. Who was it that sent the Leprosie amongst the children of *Israel* for their Murmuring? *Psal.* 78: Or how came the Sudden fire with which they were burnt up? How many Thousand perished by the Pestilence? Or were they a few that were stung to death with the fiery Serpents? Do we not read, that *The earth opened and swallowed up some of their Captaines, with their wives and Children quick*, which horrible destruction fell upon the *Israelites* for their murmuring against *Moses*, whome God had appointed their Head & Chiefe Magistrate? What shall I say of *Abalom*? What of *Achitophel*? Or what of *Sheba*? Holy Writt is so full of Examples of the like nature, that no body can esteem that a Duty which is so often testified against: And as it is far from being our duty to God,

so there is no parallel between the proceedings of the *Lords Spirituall & Temporall in England* and ours here; for the Designe of establishing *Popery & Arbitrary Government* there, was so evident, that no room was left for the least doubt of it. That there could be a Contrivance to introduce Popery here, is altogether ridiculous, & incredible: For, who was to have effected it? Could these few of the *Church of England*, who with the hazzard of their lives and fortunes so lately opposed it in *Europe*, and that in all Ages have been the onely Bulwark against it? Or were the *Presbyterians, Independants, or Annabaptists* to have brought this about? It must have been one of these, for I dare be bold to say, there are not *two* Roman Catholicks betwixt this and *New-Yorke*; and I think the others are not likely to accomplish it; which makes it plaine to me there could not be any such designe.

I have sufficiently demonstrated in the third Article, the little Right we have to any other Government in the Plantations, and that we cannot justly call that *Arbitrary*, which by the Law we are obliged to submit to: so that betwixt their Condition and ours, there can be no Parity.

As their Reasons and ours were different, so are the Measures which have been taken: for His late Highness the *Prince of Orange*, having well weighed and considered the tottering Condition of the *Protestant Religion* all over *Europe*, thought it was high time for Him to take up Arms, as well for His owne Preservation; as that of his Neighbours and Allies. We do not finde, that, notwithstanding the danger that hung over their Heads, the people of *England* took up armes to right themselves, but instead thereof, they became humble suppliants to His Highness for his Favour and Protection, which He was pleased to grant them. Neither do we finde, that the *Lords Spirituall & Temporall* assumed any Authority, for which they had no colour of Law: as they are *Peers*, they are invested with the highest Authority, are the Grand Conservators of the Peace of the Nation: they never left their Duty and Allegiance to his late Majesty, untill he first left the Kingdome, and all things were transacted in his Name, and by his Authority untill the very minute the *Prince* was proclaimed, who came, not by Force to Conquer and Subject the Nation to a forreigne power, nor to subvert and destroy the Lawfull Government; but to maintaine & support the same in a peaceable manner, by a *Free Parliament*, for which his Majestic issued forth his Writts, and had he thought fit to have stayd untill their sitting, all Grievances might have been redressed: the *Prince or Peers* never abrogated nor altered

altered any of the lawful powers of the Nation, but strengthened & confirmed all that were capable of bearing Office, by which there was alwaies a due Administration of Justice: The Sword was never said to rule & sway, and by consequence that Confusion and Disorder avoided which our *Illegal & Arbitrary* Proceedings have precipitated us into.

As to the Fancifull Stories of *Macquaes*, *Subterranean Vaults*, *Fire-works*, *French Friggots*, *Poisoning the Souldiers to the Eastward &c.* they are so apparently false & strangely ridiculous, that by this time no man in his wits can believe them, and I need no Argument to confute the Credit of those monstrous follies, since time and Experience have sufficiently demonstrated them to be meer *Lyes & Inventions*.

And now I hope all sober thinking men are convinced, That the before-alleged Reasons, are in themselves either absolutely false, or of little moment, and consequently no sufficient grounds for us to take up Arms. All that remains on this head therefore, will be to shew,

1st. That *If all the Reasons had been true, yet it could not justify our Proceedings.* And,

2. *If our Condition had been as bad, and our Grievances really as great as we were made believe, these measures could never Mend the one nor Redresse the other.*

The most excellent *Grotius* hath so learnedly wrote upon the first of these, that I shall presume to use no other Argument than his own upon that head, which pray consider.

“Private men may without doubt (saith he) [*Grot. de jure Belli & Pacis lib. 1. cap. 4. Quest. 1.*] “make War against private men, as the Travel-ler against the Thief or Robber: So may Sovereigne Princes & States, “against Sovereigne Princes, as *David* against the King of the *Ammonites*. Private men may make war against Princes, if not their owne, “as *Abraham* against the King of *Babylon* and his Neighbours. So may “Sovereigne Princes against private men, whether they be their owne “subjects, as *David* against *Ishbosheth* and his party; or Strangers, as “the *Romans* against *Pirates*. The onely doubt is whether any person “or persons, publique or private, can make a lawful War against those “that are set over them, whether supream or subordinate unto them: And in the First place,

“It is on all hands granted, That they that are Commissionated by the “highest powers, may make War against their Inferiors, as *Nehemiah* “against *Iobab & Sanballat*, by the Authority of *Artaxerxes*. But whe-ther

ther it be lawful for Subjects to make warre against those who have the supreme power over them, or against such as act by, & according to their Authority is the thing in question. It is also by all good men acknowledged, That if the Commands of a Prince shall manifestly contradict, either the Law of Nature, or the Divine precepts, they are not to be obeyed: for the Apostles when they urged that Maxim, (*Act. 4.*) *Deo magis quam hominibus obediendum*, That God is rather to be obeyed than man, unto such as forbade them to preach in the Name of Jesus, did but appeal to a principle of right Reason, which Nature had insculpt in every mans breast: and which *Plato* expresseth in almost the very same words. But yet, if either for this or any other cause, any Injury be offered unto us, because it so please him that hath the Sovereigne power, it ought rather to be patiently tolerated than by Force resisted: For although we do not owe an active Obedience to such commands of Princes, yet we do owe a passive; though we ought not to violate the laws of God or of Nature to fulfill the Will of the greatest Monarch, yet ought we rather patiently to submit to whatsoever he shall inflict upon us for not Obeying, than by Resistance to violate our Countreys Peace. The best and safest Course we can steer in such a case, is, Either by Flight to preserve our selves, or resolutely to undergo whatsoever shall be imposed upon us.

2. War against Superiors as such, is unlawful. And naturally all men have a Right to repell Injuries from themselves by Resisting them (as we have already said) but Civil Societies being once Instituted for the Preservation of the Peace, there presently succeeded unto that Common-Wealth, a certain greater Right over us & ours, so far forth as was necessary for that end. And therefore that promiscuous Right that Nature gave us to resist, the Common-Wealth, for the maintaining of good Order and publick Peace, hath a Right to prohibit, which without all doubt it doth; seeing that otherwise it cannot obtain the end it proposeth to it self. For in case that Promiscuous Right of forcible Resistance should be tolerated, it would be no longer a Common-Wealth that is a Sanctuary against Oppression, but a confused Rabble, such as that of the Cyclops, whereof the Poet thus,

-- Where every Ass

May on his wife & children judgement pass.

A dissolute Company, where All are speakers and none hearers: like to unto that which *Valerius* records of the *Bebricii*,

--- Who all Leagues and Laws disdain

And Justice, which men's minds in peace retain.

Salust makes mention of a wild and savage people living like Beasts in Woods

Woods and mountains, without Lawes and without Government, whom he calls *Aborigines* : and in another place of the *Getuli*, who had neither Lawes, good Customs, nor any Princes to govern them. But Cities cannot subsist without these, *Generale pactum est societatis humana Regibus obviare* ; *All humane societies* (saith St. Augustine) *unanimously agree in this, to obey Kings* ; So Æschylus,

Kings live by their owne Lawes, Subiect to none.

And Sophocles,

They Princes are, obey we must, what not ?

To the same Tune sings Euripides,

Folly in Kings must be with patience borne.

Whereunto agrees that of Tacitus, *Principi summum rerum arbitrium Dii dederunt, &c. Subditis obsequii gloria relicta est* ; God hath invested a Prince with Sovereign power, leaving nothing to Subjects but the Glory of Obedience.

And here also,

Base things seem noble when by Princes done ;

What they Impose, bear thou, be'st right or wrong.

[Sen.]

Wherewith agrees that of Salust, *Impune quid vis facere, hoc est Regem esse* ; To do any thing without fear of punishment, is peculiar to Kings : for as Mark Anthony urged in Herod's Case, If he were accountable for what he hath done as a King, he could not be a King. Hence it is, that the Majesty of such as have Sovereign power, whether in one or more, is fenced with so many and so severe Lawes, and the Licentiousness of Subjects restrained with such sharp and exquisite Torments ; which were unreasonable, if to resist them were lawful. If a Souldier resist his Captain that strikes him, and but lay hold on his Partizan, he shall be cashiered ; but if he either breake it, or offer to strike againe, he shall be put to Death : For as Aristotle observes *If he that is an Officer strike, he shall not be struck againe.*

3. The Unlawfulness of making War against our Superiours, is proved by the Jewish Law. [*Jos. 1. 13. 1. Sam. 8. 11. Deut. 17. 14.*]

By the Hebrew Law, He that behaved himself contumaciously against either the High Priest, or against him who was extraordinarily by God ordained to govern his people, was to be put to death ; and that which in the eighth Chapter of the first Booke of *Samuel*, is spoken of the Right of Kings, to him that throughly inspects it, is neither to be understood of their true and just Rights, that is, of what they may do justly and honestly (for the Duty of Kings is much otherwise described *Deut. 8. 11.*) nor is it to be understood barely, of what he will do : for then

then it had signified nothing that was singular or extraordinary, for private men do the same to private men: But it is to be understood of such a Fact as usurps or carries with it the privilege of what is right, that is, that it must not be resisted although it be not right; for Kings have a Right peculiar to themselves, and what in others is punishable in them is not. That old saying, *Summum jus, summa injuria*, Extreme right is extreme Wrong, is best fitted to the Case of Kings, whose absolute power makes that seem right, which strictly taken is not so. There is a main difference between Right in this sense taken, and Just; for in the former sense, it comprehends whatsoever may be done without fear of Punishment: but Just, respect only things lawful and honest. And though some Kings there be, who are (what *Servius* in *Cicero's Philippicks* is commanded to be) *Magis justitia quam Juris consulti*; more regardful of their honour and duty than of their power and prerogatives: yet this doth not diminish their Sovereign Right; because if they will they may do otherwise without the danger of being resisted. And therefore it is added in that place of *Samuel* before cited, That when the people should at any time be thus oppressed by their Kings, as if there were no Remedy to be expected from men, they should invoke His help who is the Supreme Judge of the whole Earth. So that whatsoever a King doth, tho' the same done by an inferior person would be an Injury, yet being done by him is Right. As a Judge is said *Jus reddere*, to do Right, though the Sentence he gives be unrighteous.

7. By the Gospel-Law. When Christ in the New-Testament Commanded to give *Cæsar* his due, doubtless he intended that his Disciples should yield as great, if not a greater Obedience, as well active as passive unto the higher power, than what was due from the Jews to their Kings: which *St. Paul*, (who was best able to interpret his Masters Words) expounding *Romans 13.* doth at large describe the duty of Subjects; Charging those that resist the power of Kings, with no less Crime than Rebellion against God's Ordinance, and with a Judgment as great as their Sin: For, saith he, *They that do so resist shall receive unto themselves damnation.* And a little after he urgeth the Necessity of our Subjection, *Not altogether for fear but for conscience, as knowing, that he is the minister of God for our Good.* Now if there be a necessity of our Subjection, then there is the same necessity for our not resisting, because he that resists is not subject. Neither did the Apostle mean such a necessity of subjection as arises from an apprehension of some worse inconvenience that might follow upon our resistance, but such as proceeds from the sense of some benefit that we receive by it,

D

whereby

whereby we stand obliged in duty, not unto man onely, but unto God; So that; *He that Resists the power of the supream Magistrate, incurs a double Punishment (saith Plato) First from God, for breaking that good Order which he hath constituted amongst men. And Secondly, From the Common Wealth, whose righteous Laws, made for the preservation of the publick peace, are by Resistance Weakened, and the Common-Wealth thereby endangered. For canst thou believe (saith Plato) that any City or Kingdom can long stand, when the publick Decrees of the Senate shall be wilfully broken and trampled upon by the over-swelling power of some private men, who in struggling against the Execution of the Laws, do, as much as in them lies, dissolve the Common-wealth, & consequently bring all into confusion.* The Apostle therefore fortifies this Necessity of publick Subjection to Princes with 2 main Reasons: First because God had constituted and approved of this order of Commanding and Obeying; and that not only under the Jewish, but under the Christian Law: Wherefore the powers that are set over us are to be Observed (not servilely, superstitiously, or out of Fear, but with free, rational, & generous Spirits) *tanquam a Diis data*, as being given by the Gods, saith Plato: or as St. Paul, *tanquam a Deo ordinata*, as if ordained by God himself. Which Order as it is Originally God's, so by giving it a Civil Sanction, it becomes ours also: For thereby we add as much Authority to it as we can give. The other Reason is drawn *ab utili*, from Profit: because this Order is constituted for our good, and therefore in Conscience is to be obeyed and not resisted.

But here some men may say, That to bear injuries is not at all profitable unto us, whereunto some men (haply more truly than apostely to the meaning of the Apostle) give this Answer, That patiently to bear Injuries, conduceth much to our Benefit, because it entitles us to a Reward, far transcending our Sufferings, as St. Paul testifies. But though this also be true, yet it is not (as I conceive) the proper and genuine sense of the Apostles words, which doubtless have Respect to that Universal Good, whereunto this Order was first instituted, as to its proper end; which was the publick peace, wherein every particular man, is as much concerned, if not much more than in his Private. (for what Protection can good Laws give, if Subjects may refuse to yield their obedience to them; whereas, by the Constant observance of good Laws, all Estates, both publick and private, do grow up and flourish together.) [Plato.] And certainly these are the good Fruits that we receive from the supream Powers, for which in Conscience we owe them Obedience. For no man did ever yet wish ill to himself. (But he that
resists

resists the power of the Magistrate, and willfully violates the Laws established, doth in effect (as far as in him is) dissolve his Countrey's peace. and will in the end bury himself also in the ruins of it.) [*Plato.*] Besides, the Glory of Kings consists in the prosperity of their Subjects, When *Sylla* had by his Cruelty, almost depopulated, not *Rome* only, but all *Italy*, one seasonably admonisht him, *Sinendos esse aliquos vivere, ut essent, quibus imperet*; That some should be permitted to live, over whom he might rule as a King. [*Florus.* *Aug. de civ. Dei. Lib. 3. cap. 28.*] It was a common Proverb among the *Hebrews*, *Nisi Potestas publica esset, alter alterum vivum deglutiret*; Were it not for the Sovereign Powers, every Kingdom would be like a great Pond, wherein the greater Fish would alwaies devour the Lesser. Agreeable whereunto is that of *Chrysostome*, Unless there were a power over us to restrain our inordinate Lusts, Men would be more fierce & cruel than Lions & Tygers, not only biting, but eating & devouring one another. Take away Tribunals of Justice, and you take away all Right, Property and Dominion: No man can say, this is mine House, this my Land, these my Goods or my Servants: but *Omnia erunt Fortiorum*, the longest Sword would take all. [*Chrys de statutis 6. ad Eph.*] The mighty man could be no longer secure of his estate than until a mightier than he came to dispossess him; The weaker must alwaies give place to the Stronger: and where the strength was equal the loss would be so too; and this would at length introduce a general Ataxy, which would be far more perilous than a perfect Slavery. Wherefore seeing that God hath Established (and humane Reason upon Tryal approved of) Sovereign Empire as the best Preservative of humane Societies, that every man should yield Obedience thereunto is most rational: For without Subjection there can be no Protection.

Obj. 2d. But here it will be objected, That The Commands of Princes do not alwaies tend to the Publique Good, and therefore when they decline from that end for which they were ordained, they ought not to be obeyed. To which I answer,

That though the Supream Magistrate doth sometimes, either through Fear, Anger, Lust, Covetousness, or such like inordinate passions, hault the ordinary path of Justice and Equity, yet are these (happening but seldom) to be passed over as personal blemishes, which (as *Tacitus* rightly observes) are abundantly recompensed by the more frequent examples of better Princes. (Besides the Lives of Princes are to be considered with some grains of allowance, in respect of those many provocations and opportunities they have to offend, which private men have

not; All men have their Failings, we our selves have ours; and in case we will admit of none in Kings, we must not rank them amongst men but Gods. The Moon hath her spots; *Venus her Mole*; and if we can find nothing under the Sun without blemish, why should we expect perfection in Kings? He is very uncharitable that judges of Rulers by some few of their evil Deeds, passing over many of their good ones. Seeing therefore that there is in all men's lives, as in our best Coin, an intermixture of good and evil; it is sufficient to denominate a Prince good, if his Vertues excel his Errors. Besides, to charge the Vices of Kings upon the Government, as they usually do who affect Innovation, is but a Cheat: For what is this, but to condemn the Law for the Corruption of some Lawyers: Or Agriculture, because some men do curse God for a Storm? *Si mentiar, Ego mentior, non Negotium*; If I do lye, (saith the Merchant in *St. Augustine*) it is I that am to be blamed not my Calling. And if some Princes do prevaricate in some things, they and not their Function are to be blamed. But as to *Laws*, tho they cannot be so made as to fit every man's Case, yet it sufficeth to denominate them good, if they obliate such disorders as are frequently practised, and so do good to the generality of the People. But as to such cases, which because they rarely happen, cannot so easily be provided against by particular Laws, even these also are understood to be restrained by general Rules. For though the Reason of the Law being particularly applyed to that special Case hold not; yet in the General, under which special Cases may lawfully be Comprehended, it may. And much better is it so to do, than to live without Law, or to permit every man to be a law to himself. Very apposite to this purpose is that of *Seneca*, [Lib. 7. de Benef. cap. 16.] *Better is it not to admit of some excuses, though just from a few, than that All should be permitted to make whatsoever they please.* Memorable is that of *Pericles* in *Thucydides*, [Lib. 2.] *Better it is for private men, that the Common-Wealth flourish, though they thrive not in it, than that they should abound & grow rich in their own private estates, and the Common-Wealth pine and Withers: For if the whole be ruined, every private mans Fortunes must needs be ruined with it: but if the Common-Wealth flourish, every private mans estate, though in it self weak, may in time be repaired. Wherefore, since the state if well ordered, can easily support any private mans fortunes, but a private mans estate, though never so well ordered, cannot repair the loss of the publique state: why do ye not rather contribute your utmost care to advance the Publique, than (as ye now do) seek to build your own private Fortunes upon the publique Ruines?* Wherewith agrees that of *Ambrose*.

Ambrose, [*de Off. Lib. 3.*] *Eadem est singulorum utilitas, quæ Univer-*
forum; The Profit which the Common-Wealth receives, redounds to every pri-
uate man. And that also in the Law, *Semper non quod privatim inter-*
est ex sociis, sed quod communi societate expedit, servari debet; Evermore,
 not that which particularly availeth any one party, but that which con-
 ducteth to the Benefit of the Common Society is to be observed. (When
 the Common people in *Rome* began to Mutinee by reason of some Taxes
 extraordinarily imposed on them, *Lavinus* the *Consul* exhorted the Senate,
 to encourage the people by their own example; and to that very end
 advised every Senator to bring into the Senate-house, all the Gold, Sil-
 ver and Brass Money he had: that it might be delivered to the *Trinovi*
 for the publick service: adding this reason, If our City overcome, no
 man needs to fear his own estate; but if it fall, let no man think to pre-
 serve his own [*Liv. l. 26.*]) For as *Plato* rightly observes, *What is*
common strengthens a city, but what enricheth private families only, weakens
and dissolves it: And therefore it concerns both Princes and subjects to pre-
fer the Affairs of the Common-Wealth, before their own either pleasure or
Profit) It is a very true Observation of *Xenophon's*, *He that in an Ar-*
my behaves himself seditionously against his General, sins against his own Life.
 And no less true is that of *Jamblicus*, *No man should think himself a Loser*
by what the Common-wealth gains, for every private mans loss is sufficiently re-
compensed in the publick profit: For as in the natural body, so doubtless in the
Civil, In totius Salute, Salus est partium; the well being of every part, con-
sists in the safety of the whole. But without doubt, among those things that
 are publick, the chief & principal is that aforesaid Order of well Com-
 manding and well-Obeying: which cannot consist where private Sub-
 jects assume that Licence of resisting the publick Magistrate: which is
 excellently described by *Dion Cassius*, whose words sound much to this
 purpose, *I cannot conceive it seemly for a Prince to submit to his subjects, for there*
can be no safety, where the feet are advanced above the Head, or where they un-
derstand to govern, whose Duty it is to be governed. What a dismal Confu-
 sion would it introduce in a Family if Children should be permitted to despise their
 Parents or Servants to dispute the Commands of their Masters? In what a
 desperate Condition is that Patient, that will not be ruled in all things by his
 Physician? And what hopes can there be of that Ship, where the Mariners re-
 fuse to obey their Pilot? Surely God hath ordained, and humane Reason up-
 on tryal hath found it necessary, that for the preservation of humane Society,
 some should Command, and some Obey. To the Testimony of *St. Paul*,
 we shall add that of *St. Peter*, whose words are these, *Honour the King,*
Servants

Servants, be ye subjects to your Masters with all fear, and not only to the good & gentle, but also to the froward: For this is thank-worthy, if a man for conscience sake toward God endure Grief, suffering wrongfully, for what glory is it, if when ye be buffeted for your faults ye take it patiently? But if when ye do well, & suffer for it, ye take it patiently, this is acceptable with God. 1. Pet. 2. 17, 18, 19. And this he by and by confirms by Christ's own Example, which *Clemens* also in his Constitutions thus expresseth, *The servant that feareth God, saith he, will serve his Master also with all faithfulness, yea, though he be impious and unjust.* Whence we may observe two things: First, That under the subjection that servants are in, even to hard Masters, is also couched that of Subjects unto Kings, though Tyrannical. And therefore, as a little before he commanded Subjection to every humane Ordinance; that is, to the Laws and Constitutions of Princes without distinction, (for when that Epistle was written, there were very few Princes that were not Idolaters) yet submit we must, saith *St. Peter*, for all that; and that, *propter Dominum, for the Lord's sake.* So what follows in the same Chapter being built upon the same foundation, respects the Duty as well of subjects as of Servants: And so requires the same Obedience, as well passive as Active; Such as we usually pay to our Parents, according to that of the Poet,

Thy Parents love if good, if bad yet bear.

And also that of *Terence*,

To bear with parents, piety Commands.

And that likewise of *Cicero* in his Oration for *Cluentius*, *Men ought not only to conceal the injuries done unto them by their parents, but to bear them with patience.* A young man of *Eretria* that had been long educated under *Zeno* being demanded, What he had learned? Answered, *Meekly to bear his Father's Wrath.* So *Justin* relates of *Lyfmachus*, That he endured the Reproaches of the King, with the same calmness of Spirit, as if he had been his Father. [*Lib. 15.*] *Forenda sunt Rerum ingenia*, The Humours of Kings most be endured: saith *Tacitus*: [*Ann. 16. Hist. 6.*] And in another place he tells us, That Good Emperours are to be wished for, but whatsoever they are, they must be obeyed. So also *Livy*, As the Rage of our Parents, so the Cruelty of our Countrey are no ways to be becalmed, but by patience and Sufferance. For which *Claudius* highly extols the *Persians*, who obeyed all their Kings equally tho never so cruel.

5. Neither did the *Practice of the primitive Christians* swerve from this Law of God, which is an undeniable Argument that they so understood it. For though the *Roman Emperours* were sometimes the very worst of men, and deadly Enemies to the Christian Faith; yea, though there wanted not such under their Government, who under the specious pretence of freeing the Common-Wealth from Tyranny and Oppression, took Arms against them, yet could they never perswade the Christians to join with them. In the Constitutions of Clemens we read, *Regia potestati resistere Nefas*, To resist the power of a King is impious. *Tertullian* in his Apology writes thus, *What was that Cassius that conspired against the life of Julius Cæsar? What was that Polcennius Niger, that in love to his own country, took Arms in Syria, as Clodius Albinus did in France & Britain, against that bloody Emperour Septimius Severus? Or What was that Plautianus, who to set the Common-Wealth free from Tyranny, attempted the Life of the same Emperour in his own palace? What was that Ælius Lætus, who having first poisoned that infamous Emperour Commodus, fearing it should not take that effect which he desired, did afterwards hire Narcissus a strong Wrestler to strangle him? Or What was that Parthenius, (whose fact Tertullian doth so much detest) who being Chamberlain to that execrable Tyrant Domitian, yet killed him in his own Chamber? What (saith Tertullian) were all these? Surely not Christians, but Romans.* Nay, So abominated they were by Christians, that Tertullian seems to glory in this, that though Christians were every where reproached as Enemies, nay Traitors to the Imperial Crown, yet could they never find any of them, either stained with that Crime, or so much as favouring those Treasonable Practices of either *Cassius, Niger, or Albinus*. When *St. Ambrose* was commanded by the Emperour *Valentinus* to give up his Church to be Garrison'd by Souldiers, though he took it to be an injury done, not only to himself and his Congregation, but even unto Christ himself; yet would he not take any advantage of the commotions it made among the People, to make Resistance. [See *Gratian* c. 23. q. 8.] If the Emperour (saith he) had commanded what was in my power to give, were it mine House, Land, Goods, Gold or Silver, how readily should I obey; Whatsoever is mine I would willingly offer: but the Temple of God, I cannot give away, nor can I yield it up to any man: *Cum ad custodiendum, non ad tradendum illud acceptum*, Since it was committed to mee to defend and to keep, but not to betray. And whereas the people being enraged thereby, did offer their Assistance to repel the Souldiers, he refused it saying, *Quodlibet repugnare non potest*, Though

Though provoked and compelled thereunto, yet withstand or resist I cannot; grieve and weep, and mourn I can, against Arms, Souldiers and *Cochs*: I have no other weapons but Tears: for these are the only Forts and Muniments of a Priest: *Aliter nec debeo nec possum resistere*, Otherwise I neither ought nor can resist. [*Lib. 5. Orat. in Auxen.*] And presently after, being commanded to appease the Tumult, he replied, That not to excite them was in his power, but being exasperated and enraged, to appease them was in the sole power of Him, who when He pleased, *could still the ragings of the Seas & the madness of the people.* [*Epist. 33.*] And in another place he writes thus, Will ye hale me to prison, or cast me into chains? I am willing to suffer, neither shall I guard my self with multitudes of people who offer themselves to defend me. Neither would he make use of the Forces of *Maximus*, when offered against the Emperor, though an *Arian*, and a grievous Persecutor of the Church. In imitation of whom, *Gregory the Great*, in one of his epistles confesseth, That if he would have engaged himself in the Death of the *Lombards*, that Nation had at that day, had neither *King*, *Dukes*, nor *Earls*, but had been reduced into extreme Confusion. [*Greg. 1. 6. Ep. 1.*] *Nazianzen* informs us, That *Julian* the Apostate was diverted from some bloody designs he intended against the Church, by the Tears of *Christians*: Adding withal, That *These are our best Preservatives against Persecutions.* [*Naz. Orat. 1. in Julian.*] And because a great part of his Army were *Christians*, therefore his cruelty towards them, would have been not injurious to the Church of Christ only, but would at that time have much endangered the *Common-Wealth*. Unto all which we may also add that of *St. Augustine*, where expounding these places of *St. Paul*, he saith, Even for the preservation of our own Lives, we ought to submit to the Supreme Power, & not to resist them in whatsoever they shall take away from us.

6. Inferior Magistrates ought not to resist the Supream. Some very learned men there are even this age, who accommodating themselves too servilely to the times and places wherein they live, do persuade themselves first, and then others, That though this licence of Resisting the Supream power be inconsistent with the Condition of private men, yet it may agree with the Rights of inferior Magistrates; nay, further, that they sin in case they do it not: which Opinion is to be exploded, as *heretical*. For as in Logick there is a Genus which is called *Subalterne*, which though it be comprehensive of all that is under it, as a living Creature comprehends both man and Beast; yet hath it a Genus above

above it, in respect whereof it is but a *Species*: As a living Creature is to a body, which comprehends all sorts of bodies, both animate and inanimate. The like we may say of Magistrates, some are Supream, who rule all, and are ruled by none; others are Subordinate, who in respect of private men, are publick Persons, governing like Princes; But in respect of the Supream Magistrate are but private men, and are commanded as Subjects. For the power or faculty of Governing, as it is derived from the Supream power, so it is subject unto it, And whatsoever is done by the inferior Magistrate, contrary to the Will of the Supream, is null, and reputed but as a private Act, for want of the Stamp of publick Authority. All Order (say Philosophers) doth necessarily relate to somewhat that is first and highest, from whence it takes its Rise and Beginning. Now they that are of this Opinion, that inferior Magistrates may *resist* the Supream, seem to introduce such a state of things, as the Poets sanlied to have been in Heaven before Majesty was thought on, when the lesser gods denied the prerogative of *Jupiter*. But this Order or Subordination of one to another, is not only approved of by Common Experience, as in every Family the Father is the head, next unto him the Mother, then the Children, and after them the Servants, and such as are under them: So in every Kingdom, *Each power under Higher powers are* ---- And, *All Governours are under Government* ---- To which purpose is that notable saying of St. *Augustine*, Observe (saith he) the degrees of all humane things: If thy Tutor enjoin thee any thing, thou must do it; yet not, in case the Proconsul command the contrary: neither must thou obey the Consul, if thy Prince command otherwise: for in so doing thou canst not be said to contemn Authority, but thou chusest to obey that which is highest: Neither ought the lesser powers to be offended, that the greater is preferred before them, for *God is the God of order*. [*Grat. c. 11. q. 3, Qui resistit.*] And that also of the same Father concerning *Pilate*, Because (saith he) God had invested him with such a power as was it self subordinate to that of *Cæsars*. But it is also approved of by Divine Authority, For St. *Peter* enjoyns us to be subject unto *Kings*, otherwise than unto Magistrates: To *Kings as supream*, that is, absolutely, without Exceptions to any other Commands than those directly from God: who is so far from justifying our Resistance, that He commands our passive Obedience: But unto Magistrates, as they are deputed by *Kings*, and as they derive their Authority from them. And when St. *Paul* subjects every soul to the higher powers, (*Rom. 13.*) doubtless he exempts not inferior Magistrates.

Neither

Neither do we find among the *Hebrews* (where there were so many Kings utterly *regardless* of the Laws both of *God & Men*) any inferior Magistrates, among whom, some without all question, there were both pious and valiant, that ever arrogated unto themselves this Right of Resisting by force, the power of their Kings, without an expresse command from God, who alone hath an unlimited power and Jurisdiction over them. But on the Contrary, What duties inferior Magistrates owe unto their Kings, though wicked, *Samuel* will instruct us by his own Example, who though he knew that *Saul* had corrupted himself, and that God also had rejected him from being *King*, yet before the people, and before the Elders of *Israel*, he gives him that Reverence and Respect that was due unto him, (1. *Sam.* 15. 30.) And so likewise the state of Religion publicly professed, did never depend upon any other humane Authority, but on that of the *King*, and *Sanhedrim*. For in that after the King, the Magistrates with the People, engaged themselves to the true Worship and Service of God, it ought to be understood, so far forth as it should be in the power of every one of them. Nay, the very Images of their false gods which were publicly erected, (and therefore could not but be scandalous to such as were truly religious) yet were they never demolished, so far as we can read of, but at the special Command either of the people when the Government was popular, or of *Kings*, when the Government was kingly. And if the Scriptures do make mention of any Violence sometimes offered unto *Kings*, it is not to justify the fact, but to shew the Equity of the Divine providence in permitting it. And whereas they of the contrary persuasion do frequently urge that excellent Saying of *Trajan* the Emperour, who delivering a Sword to a Captain of the *Pratorian Band*, said, *Hoc pro me mere, stricto impero; si male, contra me*: Use this Sword for me if I Govern well, but if otherwise, against me. We must know, that *Trajan* (as appears by *Pliny's* Panegyrick) was not willing to assume unto himself Regal power, but rather to behave himself as a good Prince, who was willing to submit to the Judgment of the Senate and people; whose Decrees he would have that Captain to execute, though it were against himself. Whose Example both *Pertinax* and *Macrinus* did afterwards follow, whose excellent Speeches to this purpose are Recorded by *Herodian*. The like we read of *M. Anthony*, who refused to touch the publick sure without the consent of the Roman Senate.

[7. *Of Resistance in case of inevitable Necessity.*] But the Case will yet be more Difficult, Whether this Law of not-Resisting do oblige us, when

when the Dangers that threaten us be extream, and otherwise inevitable. For some of the Laws of God Himself, though they sound absolutely, yet seem to admit of some tacite Exceptions in cases of Extream Necessity: For so it was, by the wisest of the Jewish Doctors, expressly determined concerning the Law of their Sabbath, in the times of the *Hasmoneans*, whence rose that famous Saying among them, *Periculum animæ impellit Sabbatum*; The danger of a man's Life drives away the Sabbath. When the Jew in *Synefius*, was accused for the breach of the Sabbath, he excuseth himself by another Law, and that more forcible, saying, *We were in manifest jeopardy of our lives*. When *Bacchides* had brought the Army of the Jews into a great Strait on their Sabbath day, placing his Army before them and behind them, the River *Jordan* being on both sides; *Jonathan* thus bespake his Souldiers, *Let us go up now & fight for our lives, for it standeth not with us to day, as in times past*. (1. Mac. 9. 43, 44, 45.) Which case of Necessity is approved of, even by Christ Himself, as well in this Law of the Sabbath, as in that of not eating the Shew-bread. And the Hebrew Doctors pretending the Authority of an ancient Tradition, do rightly interpret their Laws made against the eating of meats forbidden, with this tacite Exception: Not that it was not just with God to have obliged us even unto death, but that some Laws of His are conversant about such matters as it cannot easily be believed that they were intended to have been prosecuted with so much Rigour as to reduce us to such an Extremity, as to dy rather than to disobey them, which in humane laws doth yet further proceed. I deny not, but that some Acts of Vertue are so strictly enjoyned, that if we perform them not, we may justly be put to Death: As for a Centinel to forsake his Station. But neither is this rashly to be understood to be the Will of the Law-giver. Nor do men assume so much Right over either themselves or others, unless it be when, & so far forth as extreme Necessity requires it. For all humane laws are so constituted, or so to be understood as that there should be some allowance for humane Frailty. The right understanding of this Law of *Resisting or not-Resisting* the Highest powers in cases of inevitable Necessity, seems much to depend upon the Intention of those who first entered into Civil Society, from whom the Right of Government is devolved upon the persons governing: who had they been demanded, Whether they would have imposed such a yoke upon all Mankind as death it self, rather than in any case by force to repel the Insolencies of their Superiours; I much question whether they would have granted it, unless it had been in such a case, where such

Resistance could not be made without great Commotions in the Common-Wealth, or the certain Destruction of many Innocents, for what Charity commends in such a case to be done, may, I doubt not, pass for an humane Law. But some may say, that this rigid Obligation, To dye rather than at any time to Resist Injuries done by our Superiours, is not imposed on us by any Humane, but by the Divine Law. But we must observe, That men did not *at first* unite themselves in Civil Society, by any special Command from God, but voluntarily, out of a sense they had of their own impotency to repel force and Violence whilst they lived solitarily, and in Families apart; whence the civil power takes its Rise. For which cause it is that St. Peter calls it an humane Ordinance, although it be else-where called a Divine Ordinance, because this wholesome Constitution of men was approved of by God Himself. But God in approving an humane Law, may be thought to approve of it as an humane law, & after an humane manner. *Barkly* (who was the stoutest Champion in defending Kingly Power) doth notwithstanding thus far allow, That the People or the Nobler part of them, have a Right to defend themselves against cruel Tyranny, and yet he confesseth, that the whole Body of the people is subject unto the King. [*Barkley. Lib. 3. contra Monarchomach. c. 8.*] Now this I shall easily admit, That the more we desire to secure any thing by Law, the more expresse and peremptory should that Law be, and the fewer exceptions there should be from it; (for they that have a mind to violate that Law, will presently seek shelter, and think themselves priviledged by those Exceptions, though their Cases be far different;) yet dare I not condemn indifferently either every private man, or every, though lesser part of the people, who as their last Refuge, in cases of extream Necessity, have anciently made use of their Arms to defend themselves, yet with respect had to the Common Good. For *David*, who (saving in some particular Facts) was so celebrated for his integrity, did yet entertain first four hundred, and afterwards more armed men; to what end, unless for the safeguard of his own person, against any violence that should be offered him? But this also we must note, That *David* did not this until he had been assured, both by *Jonathan*, and by many other infallible Arguments, that *Saul* sought his life; and that even then, he never invaded any City, nor made an offensive Warr against any, but lurked only for his own security, sometimes in Mountains, sometimes in Caves, and such like devious places, and sometimes in forreign Nations, with this Resolution, to decline all occasions of annoying his own Countrey-men.

A Fact

A Fact parallel to this of *David's*, we may read in the *Maccabees* : For whereas some seek to defend the Wars of the *Maccabees* upon this ground, That *Antiochus* was not a King, but an Usurper ; this I account but frivolous : for in the whole Story of the *Macabees*, we shall never find *Antiochus* mentioned by any of their own party, by any other Title than by that of *King* ; and deservedly : For the Hebrews had long before submitted to the *Macedonian* Empire, in whose Right *Antiochus* succeeded. And whereas the Hebrew Laws forbade a Stranger to be set over them, this was to be understood by a voluntary Election, and not by an involuntary Compulsion, through the Necessity of the times. And whereas others say, That the *Maccabees* did act by the peoples Right, to whom belonged the Right of Governing themselves by their own Laws, neither is this probable : For the Jews being first conquered by *Nebuchadonozor*, were by the Right of War subject unto him, and afterwards became by the same Law subject to the Medes and Persians, as successors to the Chaldeans, whose whole Empire did at last devolve upon the *Macedonians*. And hence it is, That the Jews, in *Tacitus* are termed *The most servile of all the Eastern Nations* ; neither did they require any Covenants or Conditions from *Alexander* or his successors, but yielded themselves freely, without any Limitations or Exceptions, as before they had done unto *Darius*. And though they were permitted sometimes to use their own Rites, and publickly to exercise their own Laws, yet was not this due unto them by any Law that was added unto the Empire, but only by a precarious Right that was indulged unto them by the Favour of their Kings. There was nothing then that could justify the *Maccabees* in their taking of Arms, but that invincible Law of *Extream Necessity* which might do it so long as they contained themselves within the bounds of Self-Preservation, and in imitation of *David*, betook themselves to secret places, in order to their own security ; never offering to make use of their Armes unless violently assaulted. In the mean time, great Care is to be taken, that even when we are thus enforced to defend our selves in cases of certain and extream danger, we spare the person of the King ; for they that conceive the carriage of *David* towards *Saul*, to proceed not so much from the Necessity of Duty, as out of some deeper consideration, are mistaken : for *David* himself declares, that no man can be innocent that stretcheth forth his hand against the Lord's Anointed : (1. Sam. 26. 9.) Because he very well knew that it was written in the Law, *Thou shalt not revile the Gods, that is the Supream Judges* : *Thou shalt not curse the Rulers of thy people.*

(Exod. 22.

{ *Exod. 22. 28.*) In which Law, special mention being made of the Supreme power; it evidently shews That some special Duty towards them is required of us. Wherefore *Optatus Melevarianus* speaking of this Fact of *David*, saith, *That God's special Command coming fresh into his memory, did so restrain him, that he could not hurt Saul, though his mortal enemy.* Wherefore he brings in *David* thus reasoning with himself, *Volebam hostem vincere, sed prius est Divina precepta observare,* Willingly I would overcome mine Enemy, but I dare not transgress the Commands of God. [*Lib. 2.*] And *Josephus* speaking of *David* after he had cut off *Sauls* Garment, saith, *That his heart smote him:* So that he confessed, *Injustum facinus erat Regem suum occidere,* It was a wicked act to kill his Sovereign. And presently after, *Horrendum Regem quamvis malum occidere, penam enim id facienti imminere constat, ab eo qui Regem dedit,* It is an horrid act to kill a King, though wicked, for certainly He, by whose providence all Kings reign, will pursue the Regicide with vengeance inevitably. To reproach any private man falsely is forbidden by the Law, but of a King we must not speak evil, though he deserve it; because as he that wrote the Problems (fathered upon *Aristotle*) saith, He that speaketh evil of the Governour, scandalizeth the whole City. So *Joab* concludes concerning *Shimei*, as *Josephus* testifies, *Shalt thou not dye, who presumest to curse him whom God hath placed in the Throne of the Kingdom?* The Laws (saith *Julian*) are very severe on the behalf of Princes, for he that is injurious unto them, doth wilfully trample upon the Laws themselves. [*Misopogoris*] Now if we must not speak evil of Kings, much less must we do evil against them. *David* repented but for offering violence to *Saul's* Garments, so great was the Reverence that he bare to his person, and deservedly: For since their Sovereign power cannot but expose them to the General Hatred, therefore it is fit, that their security should especially be provided for. This, saith *Quintilian*, is the fate of such as sit at the Stern of Government, that they cannot discharge their Duty faithfully, nor provide for the publick safety, without the envy of many. (And for this cause are the persons of Kings guarded with such severe Laws, which seem, like *Draco's*, to be wrote in blood,) as may appear by those enacted by the *Romans*, for the security of their Tribunes, whereby their persons became inviolable. Amongst other wise Sayings of the *Esseni*, this was one, That the persons of Kings should be held as sacred. And that of *Homer* was as notable,

*His chiefest care was for the King,
That nothing should endanger him.*

And

And no marvel: For as St. Chrysostome well observes, *If any man kill a sheep, he but lessens the number of them, but if he kill the Shepherd, he dissipates the whole flock.* The very Name of a King, as Curtius tells us, among such nations as were governed by Kings, was as venerable as that of God. So Artabanus the Persian, *Amongst many and those most excellent Laws we have, this seems to be the best, which commands us to adore our Kings as the very image of God who is the Saviour of all.* And therefore as Plutarch speaks, *Nec fas, nec legitimum est Regis corpori manus inferre,* It is not permitted by the Laws of God or man, to offer violence to the person of a King. But as the same Plutarch in another place tells us, *The principal part of valour is, to save him that saves all. If the eye observe a blow threatening the head, the hand, being instructed by nature, interposes it self, as preferring the safety of the head (whereupon all other members depend) before their own.* Wherefore, as Cassiodore notes, He that with the loss of his own life, Redeems the Life of his Prince, doth well; if in so doing he propose to himself the freeing of his own soul, rather than that of another mans body, for as conscience teacheth him to express his fidelity to his Sovereign; so doth right Reason instruct him to prefer the life of his Prince, before the safety of his own body. But here a more difficult question ariseth; as namely, Whether what was lawful for David and the Maccabees, be likewise lawful for us Christians: Or whether Christ who so often enjoins us to take up our Cross, do not require from us a greater measure of patience? Surely, where our Superiours threaten us with Death upon the account of Religion, our Saviour advised such as are not obliged by the necessary Duties of their Calling to reside in any one place, to flee, but beyond this, nothing. St. Peter tells us, *That Christ in his suffering left us an ensample, who tho' he knew no sin, nor had any guile found in his mouth, yet being reviled, reviled not again, when he suffered, he threatned not, but remitted his cause to him that judgeth righteously* (1. Pet. 4. 12, 13, 14, 15, 16.). Nay he adviseth us to give thanks unto God, and to rejoice when we suffer persecution for our Religion: and we may read how mightily Christian Religion hath grown and been advanced by this admirable gift of patience, wherefore how injurious to those ancient Christians (who (living in or near the times of either the Apostles themselves or men truly Apostolical) must needs be well instructed in their Discipline, and consequently walked more exactly according to their Rules, yet suffered death for their faith) how injurious I say, to these men, are they, who hold that they wanted not a Will to resist, but rather a power to defend themselves at the approach of death? Surely,

Surety *Tertullian* had never been so imprudent, nay, so impudent as so confidently to have affirmed such an untruth, whereof he knew the Emperor could not be ignorant, when he wrote thus unto him, *If we had a will to take our private Revenge, or to act as publick Enemies, could we want either numbers of men, or stores of warlike Provisions? Are the Moors, Germans, Parthians, or the people of any one Nation, more than those of the whole World? We, though strangers, yet do fill all places in your Dominions; your Cities, Islands, Castles, Forts, Assemblies, your very Camps, Tribes, Courts, Palaces, Senates; only your Temples we leave to your selves: For what war have we not alwaies declared our selves fit and ready, though in Numbers of men we have sometimes been very unequal? How cometh it then to pass, that we suffer Death so meekly, so patiently, but that we are instructed by our Religion, that it is much better to be killed than to kill?* *Cyprian* also treading in his Masters steps, openly declares, *That it was from the principles of their Religion, that Christians being apprehended, made no Resistance, nor attempted any revenge for injuries unjustly done them, though they wanted neither numbers of men, nor other means to have resisted, but it was their confidence of some divine Vengeance that would fall upon their persecutors, that made them thus patient, & that perswaded the innocent to give way to the nocent.* [Lib. 5.] So *Lactantius*, *We are willing to confide in the Majesty of God, who is able, as well to revenge the contempt done to Himself, as the injuries and hardships done unto us: Wherefore, though our sufferings be such as cannot be expressed, yet we do not mutter a word of discontent, but refer our selves wholly to him who judgeth righteously.* And to the same tune sings *St Augustine*, *When Princes err, they presently make Laws to legitimate their errors, and by those very laws they judge the innocent, who are at length crowned with Martyrdom.* [Ep 166.] And in another place, *Tyrants are so to be endured by their subjects, & hard Masters by their servants, that both their temporal lives (if possible) may be preserved, and yet their eternal safety carefully provided for: Which he illustrates by the examples of the primitive Christians, Who though they then sojourned upon earth as Pilgrims, and had infinite numbers of nations to assist them, yet chose rather patiently to suffer all manner of torments, than forcibly to resist their persecutors: Neither would they fight to preserve their temporal lives, but chose rather not to fight, that so they might ensure unto themselves an eternal. For they endured Bonds, Stripes, imprisonment the Rack, the Fire, the Cross; they were stead alive, killed, and quartered, and yet they multiplied; they esteemed this life not worth the fighting for, so that with the loss of it they might purchase what so eagerly they panted after, a better.* Of the same opinion was *Cyris*, as may appear by many notable Sayings

Sayings of his upon that place of St. John, where he treats of Peter's Sword. The Thebean Legion, we read, consisted of 6666. Souldiers, and all Christians, who when the Emperour Maximianus would have compelled the whole Army to sacrifice to Idols, first removed their Station to Agaunus, and when upon fresh orders sent after them, they refused to come, Maximianus commanded his officers to put every tenth man to Death, which was easily done, no man offering to resist : At which time Mauritian (who had the chief Command in that Legion, and from whom the Town Agaunus in Switzer-land was afterwards called St. Mauritz, as Eucherius, Bishop of Lyons, records) thus bespake his fellow souldiers, *How fearful was I lest any of you under the pretence of defending your selves (as was easie for men armed as ye are to have done) should have attempted by force to have rescued from death those blessed Martyrs? which had you done, I was sufficiently instructed by Christs own example to have forbidden it, who expressly remanded that Sword into its sheath, that was but drawn in his own defence; thereby teaching us that our Christian Faith is much more prevalent than all other arms.* This tragick Act being past, the Emperour commanding the same thing to the survivours, as he had done before to the whole Legion, they unanimously returned him this answer, *Ini quidem, Cæsar, milites sumus, &c. We are thy Soldiers, O Cæsar, we took arms for the defence of the Roman Empire; we never yet deserted the war, nor betrayed the trust reposed in us; we were never yet branded with fear or cowardise, but have alwaies observed thy commands, until being otherwise instructed by our Christian Laws, we refuse to worship the devil, or to approach those altars that are polluted with blood. We find by thy commands, that thou resolvest either to draw us into Idolatry, or to affright us by putting every tenth man of us to death: make no further search after those that are willing to lye concealed; but know that we are all of us Christians, all our bodies thou hast indeed under thy power, but our souls are subject only to Christ our redeemer.* Then Exuperius being the Standard-bearer to that Legion thus bespake them, *Hukerto, Fellow-Soldiers, I have carried the Standard before you in this secular war, but it is not unto these arms that I am now to invite you, it is not unto these wars that I now excite your valour, for now we are to practise another kind of warfare; for with these weapons ye can never enforce your way into the Kingdom of heaven. And by & by he sends this Message to the Emperour, Against thee, O Cæsar, Desperation it self (which usually makes even Cowards valiant) cannot prevail with us to take arms. Behold, we have our weapons fixt, yet will we not resist; because we chuse rather to be killed by thee than to overcome thee, and to dye innocents, than to live rebels to either God or thee.* And a little after he adds, *Tela projecti-*

projicimus, &c. We abandon our arms, O Emperour, & will meet thy messengers of death with naked breasts, yet with hearts strongly munit with Christian Faith. And presently after followed that general Massacre of the Thebean Band, whereof Eusebius gives this Narrative, It was neither their Innocence nor their Numbers, that could exempt them from death, whereas in other more dangerous tumults, a multitude though offending, are rarely punished. The same story in the old Martyrology we find thus recorded, They were every where wounded with swords, yet they cryed not out, but disdaining the use of their Arms, they exposed their breasts naked to their persecutors: It was neither their numbers nor their experience in war, that could persuade them to assert the equity of their cause by their swords, but placing His example alwaies before them, who was led to the slaughter dumb, and like a lamb to be sacrificed, opened not his mouth; they also in imitation of Him; like the innocent flock of Christ, suffered themselves to be worried and torn in peices by an herd of persecuting wolves. Thus also do the Jews of Alexandria, testifie their innocency before Flaccus, We are, as thou seest, unarmed, and yet we are accused unto thee as publick enemies to the state: these hands which nature hath given us for our defence, we have caused to be pinnaced behind us, where they are of little use, & our breasts we expose naked to every man that hath a mind to kill us. And when the Emperor Valens cruelly persecuted those Christians, which according to the Holy Scriptures, & the Traditions of the Ancient Fathers, profest Christ to be *ὁμοούσιον*, that is, Co-essential with the Father; though there were every where great Multitudes of them, yet did they never attempt by arms to secure themselves. Surely, wheresoever Patience in times of persecution is commended unto us, there we find Christ's own example held out unto us (as we read it was to the Thebean Legion) for our imitation. As therefore His patience, so ours, should have no bounds nor limits but death it self. And he that thus loseth his life, is truly said by Christ Himself to find it.

Secondly. These measures could never better our Condition, nor redress our Grievances, unless we should be so vain to imagine our selves capable of waging war with the Crown of England, and all its Allies. Is the KING so petty and inconsiderable a Prince that He should be forced? Or can we think that the noise of our Thousands and Ten Thousands will frighten Him into a Compliance? Without doubt if we do, we shall too too late find our mistake, and a woful experience will quickly teach us, that the sole want of Their Majesties Protection, will in a very short time reduce us to the most miserable & deplorable condition in the world.

But

But perhaps we may fancy that this action of ours hath extremely obliged Them, and that all things now are become justly due to the merits of our services: 'twill do very well if it be so understood, but I cannot see the least probability of such a Construction; for we have sufficiently manifested in our *Declaration*, that *Self-interest* was the first and principal motive to our Undertaking, and our Progress doth plainly demonstrate, that we have only made use of Their Names, the better to effect our own Designs; whilst every thing that hath any Relation to Them, lies neglected & unregarded, without any recognition of Their Authority over these Dominions, or the least Acknowledgment of our *Submission* to such orders as should come from Them; saving what particularly related to some *few ill men* (as we call them) whom we have imprisoned & detained without any *Law* or *Reason*; so that we have rashly & imprudently adventur'd our *All* upon a chance, (not an *equal* one) whether it will be well, or ill taken: if well, we can expect nothing more than what we should have had by sitting still & quiet, unless it be a vast Charge, Trouble & Expence, which we have inevitably brought upon our selves: if ill, what will be the Event?

In the first place our Countrey, which hath been so remarkable for the true Profession and pure Exercise of the Protestant Religion, will be termed a Land full of Hypocrisie, *REBELLION*, Irreligion, and what not; and we our selves a degenerate, wicked people, that have fallen from the practises of our Fore-fathers, and the purity of our first principles.

2. In all our Pamphlets and Discourses, we have so magnified our Action, and boasted of the vast numbers we can bring into the Field, that it must be of great import to the Crown of *England* to curb us & in time to reduce us to our former obedience; & no body will imagine it consistent with the *interest* of that *Crown*, any more to trust Government in the hands of a people, so ready & so able upon all occasions to set up for themselves, and the stronger we are, the more need there will be to keep us under.

3. And lastly, We shall really endure and undergo all those Miseries & Calamities which we *fancied* to our selves under the late Government; and become the Scorn and By-word of all our Neighbours.

What then remains, but that *whilst it is yet called to day*, we should endeavour to settle our selves in such a Posture, as may at least *mitigate*, if not wholly prevent the before-mentioned inconveniences. If our Charter be restored such a Condition cannot hurt us; but the *want* of it may; for we are *accountable* for every Action & every false Step we make after the date of it, & render our selves lyable to be Questioned & *Quo-Warranto'd* for

our Male-feazance whensoever the Supream Authority shall think it meet; if not, it must be of great service to us to be found in a submissive and humble posture, fit & ready to receive Their Majesties Commands; lest while we value our selves too much, upon our own merits, we become unworthy of Their Favour in a most gracious pardon, without which (think what we will) we never can be safe & secure from the severity of the Laws, which we have indisputably violated, in matters of the highest nature & consequence imaginable.

I hope every good man will seriously & impartially consider the foregoing Discourse, and suffer himself to be guided by the Dictates of Reason, and not of Humour or Prejudice, and then I am well assured, it will be evident enough, that we have mistaken our Measures. and that a timely rectify, will more Advantage us than an obstinate and wilful perseverance, & that nothing but such a Remedy can restore our almost-perishing & undone Countrey, to a lasting Peace and happy Settlement: Which that GOD of His mercy would grant us, shall ever be the hearty prayers of
F. L.

POSTSCRIPT.

I Was principally induced to direct the precedent Discourse to you, Gentlemen, because I would rightly be understood, which I'm sure I can never fail of by persons of your Learning and Worth, and I hope you will be so kind to me & so just to your Countrey, to let me know in the most publick manner you can, wherein I have mistaken the matter either in point of Fact or Judgment; but if I have been so fortunate to Convince you, that wrong measures have been taken, and that the people had no reason for what they have done, nor no bottom for what they are yet doing; let me tell you as your duty, not only to admonish them but to reduce them to such a temper as becomes pious men & good Christians, for which you will have the praise and God the Glory.

F. L. N. S.

Errata



Page 6. line 1. dele may. p. 10 l. 2. read Portugals. p. 12. the first line of the fifth Article is wholly omitted; which read thus [*sightly What is meant by Preferments, and who are called Strangers*] p. 14. l. ult. dele the. p. 25. l. 6. r. Summum. p. ibid. l. 37. r. arist. p. 27. l. 27. r. Protection. p. 28 line 13 for mentor, r. mentior. p. 30. l. 30. r. Regnum. p. 32. l. 25. r. endangered. l. 31. r. even in this age. l. 32. r. too. l. 37. r. Genus. p. 34. l. 37. r. Treasure. p. 38. l. 11. dele a. l. 37. r. as notable.

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